

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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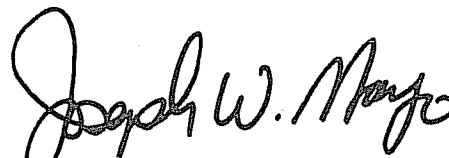
Legislative Document

No. 106

H.P. 76

House of Representatives, January 21, 1993

Reference to the Committee on Judiciary suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative NASH of Camden.

Cosponsored by Representative HEINO of Boothbay, Representative LOOK of Jonesboro and Senator PINGREE of Knox.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-THREE

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**An Act to Provide for Adequate Bail Conditions for High-risk Offenders.**

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Be it enacted by the People of the State of Maine as follows:

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3       **Sec. 1. 15 MRSA §1026, sub-§3, ¶A,** as amended by PL 1987, c.  
4 870, §4, is further amended by amending subparagraph (17) to read:

6               (17) Inform any law enforcement officer of the  
7 defendant's condition of release if the defendant is  
8 subsequently arrested or summoned for new criminal  
9 conduct; and

10       **Sec. 2. 15 MRSA §1026, sub-§3, ¶A,** as amended by PL 1987, c.  
11 870, §4, is further amended by enacting subparagraph (17-A) to  
12 read:

13               (17-A) Is prohibited from using for bail any money or  
14 property that has been obtained as the result of  
15 criminal activity or from a criminal enterprise, or  
16 that the defendant must establish the title to and  
17 source of money or property offered to satisfy a bail  
18 order, or both; and

19  
20  
21       **Sec. 3. 15 MRSA §1026, sub-§4,** as enacted by PL 1987, c. 758,  
22 §20, is amended to read:

23  
24       **4. Factors to be considered in release decision.** In  
25 setting bail, the judicial officer shall, on the basis of an  
26 interview with the defendant and other reliable information which  
27 that can be obtained, take into account the available information  
28 concerning the following:

- 29  
30       A. The nature and circumstances of the crime charged;  
31  
32       B. The nature of the evidence against the defendant; and  
33  
34       C. The history and characteristics of the defendant,  
35 including, but not limited to:
- 36               (1) The defendant's character and physical and mental  
37 condition;
  - 38               (2) The defendant's family ties in the State;
  - 39               (3) The defendant's employment history in the State;
  - 40               (4) The defendant's financial resources;
  - 41               (5) The defendant's length of residence in the  
42 community and the defendant's community ties;
  - 43               (6) The defendant's past conduct, including any  
44 history ~~relating~~ related to drug or alcohol abuse;
  - 45               (7) The defendant's criminal history, if any;
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- 2 (8) The defendant's record concerning appearances at  
court proceedings;
- 4 (9) Whether, at the time of the current offense or  
6 arrest, the defendant was on probation, parole or other  
release pending trial, sentencing, appeal or completion  
8 of a sentence for an offense in this jurisdiction or  
another; and
- 10 (10) Any evidence that the defendant has obstructed or  
12 attempted to obstruct justice by threatening, injuring  
or intimidating a victim or a prospective witness,  
14 juror, attorney for the State, judge, justice or other  
officer of the court; and
- 16 (11) The reliability and quality of the defendant's  
18 identification. If the judicial officer is not  
20 satisfied that the defendant's identity, address and  
22 criminal history, if any, have been reliably  
24 established, the judicial officer shall continue the  
bail hearing until the officer is satisfied that the  
defendant's identity, address and criminal history, if  
any, have been reliably established; and

26 D. The title to and source of money or property available  
28 to the defendant to satisfy a bail order. The judicial  
30 officer may order that the acceptance of money or property  
32 offered to satisfy a bail order be subject to a hearing to  
ensure that the money or property offered has not been  
obtained as the result of criminal activity or from a  
criminal enterprise.

34 The judicial officer shall consider whether a combination of  
36 individual factors, history and characteristics, creates a  
38 heightened risk that the defendant will not appear for trial. If  
the judicial officer finds that a heightened risk exists, the  
officer shall impose conditions under subsection 2 to ensure the  
defendant's appearance at trial.

40 **STATEMENT OF FACT**

42 This bill amends the Maine Bail Code to add provisions  
44 designed to ensure that professional criminals and other  
46 high-risk offenders will not be able to post bail under an  
assumed identity, post bail derived from criminal activities or  
48 engage in other practices designed to avoid appearance for trial.